

EXHIBIT A

EXHIBIT 1

[Filed Under Seal]

Videotaped Deposition of
Harley G. Lappin
October 29, 2020

Grae

vs.

Corrections Corporation of America, et al.
Confidential Pursuant to the Protective Order



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<p style="text-align: right;">Page 1</p> <p>1 UNITED STATES DISTRICT COURT</p> <p>2 MIDDLE DISTRICT OF TENNESSEE</p> <p>3</p> <p>4 NIKKI BOLLINGER GRAE, Individually</p> <p>5 and on Behalf of All Others</p> <p>6 Similarly Situated,</p> <p>7 Plaintiff, Civil Action No.</p> <p>8 vs. 3:16-cv-02267</p> <p>9 CORRECTIONS CORPORATION OF</p> <p>10 AMERICA, ET AL.,</p> <p>11</p> <p>12 Defendants.</p> <p>13</p> <p>14 CONFIDENTIAL - PURSUANT TO PROTECTIVE ORDER</p> <p>15</p> <p>16 VIDEOTAPED DEPOSITION OF HARLEY G. LAPPIN</p> <p>17</p> <p>18 Conducted virtually via remote videoconference</p> <p>19 October 29, 2020</p> <p>20</p> <p>21</p> <p>22</p> <p>23 Reported by:</p> <p>24 Misty Klapper, RMR, CRR</p> <p>25 Job No.: 10073532</p>	<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES:</p> <p>2 (ALL APPEARANCES VIA ZOOM REMOTE VIDEOCONFERENCE)</p> <p>3 ON BEHALF OF PLAINTIFF:</p> <p>4 JASON A. FORGE, ESQUIRE</p> <p>5 ROBBINS GELLER RUDMAN & DOWD LLP</p> <p>6 655 West Broadway, Suite 1900</p> <p>7 San Diego, California 92101</p> <p>8 (619) 231-1058</p> <p>9 E-mail: jforge@rgrdlaw.com</p> <p>10</p> <p>11 AND</p> <p>12</p> <p>13 KENNETH J. BLACK, ESQUIRE</p> <p>14 ROBBINS GELLER RUDMAN & DOWD LLP</p> <p>15 One Montgomery Street, Suite 1800</p> <p>16 San Francisco, California 94104</p> <p>17 (415) 288-4545</p> <p>18 E-mail: kennybrgrdlaw.com</p> <p>19</p> <p>20 ON BEHALF OF DEFENDANTS AND THE DEPONENT:</p> <p>21</p> <p>22 BRIAN T. GLENNON, ESQUIRE</p> <p>23 ERIC CHARLES PETTIS, ESQUIRE</p> <p>24 LATHAM & WATKINS, LLP</p> <p>25 355 South Grand Avenue, Suite 100</p> <p>Los Angeles, California 90071</p> <p>(213) 485-1234</p> <p>E-mail: brian.glennon@lw.com</p> <p>eric.pettis@lw.com</p> <p>ALSO PRESENT: WILLIAM GEIGERT</p>
<p style="text-align: right;">Page 2</p> <p>1 UNITED STATES DISTRICT COURT</p> <p>2 MIDDLE DISTRICT OF TENNESSEE</p> <p>3</p> <p>4 NIKKI BOLLINGER GRAE, Individually</p> <p>5 and on Behalf of All Others</p> <p>6 Similarly Situated,</p> <p>7 Plaintiff, Civil Action No.</p> <p>8 vs. 3:16-cv-02267</p> <p>9 CORRECTIONS CORPORATION OF</p> <p>10 AMERICA, ET AL.,</p> <p>11</p> <p>12 Defendants.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 Videotaped deposition of HARLEY G. LAPPIN, taken on</p> <p>18 behalf of Plaintiff, via Zoom remote videoconference,</p> <p>19 beginning at 10:43 a.m. CST on Thursday, October 29, 2020,</p> <p>20 before Misty Klapper, RMR, CRR.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 C O N T E N T S</p> <p>2 WITNESS: EXAMINATION BY: PAGE:</p> <p>3 Harley G. Lappin Mr. Forge 6</p> <p>4 Mr. Glennon 121</p> <p>5</p> <p>6</p> <p>7</p> <p>8 E X H I B I T S</p> <p>9 LAPPIN EXHIBITS:</p> <p>10 NO.: DESCRIPTION: PAGE:</p> <p>11 Exhibit 590 Transcript of the confidential</p> <p>12 videotaped deposition of Harley</p> <p>13 G. Lappin taken on 7-28-20 59</p> <p>14</p> <p>15 Note: Exhibits marked and attached to original.</p> <p>16</p> <p>17 EXHIBITS REFERRED TO: PAGE:</p> <p>18 Dodrill Exhibit 546 83</p> <p>19 Hininger Exhibit 346 81</p> <p>20 Kelly Exhibit 432 71</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 5</p> <p>1 PROCEEDINGS</p> <p>2 VIDEO OPERATOR: Good morning. We</p> <p>3 are now on the record.</p> <p>4 My name is Bill Geigert and I am a</p> <p>5 videographer with Aptus Court Reporting.</p> <p>6 Today's date is October 29, 2020 and the</p> <p>7 time is 10:43 a.m.</p> <p>8 This deposition is being held via</p> <p>9 remote Zoom in the matter of Nikki Bollinger</p> <p>10 Grae versus Corrections Corporation of</p> <p>11 America, et al. The deponent today is</p> <p>12 Harley Lappin.</p> <p>13 All parties to this deposition are</p> <p>14 appearing remotely and have agreed to the</p> <p>15 witness being sworn in remotely. All</p> <p>16 appearances have been noted on the</p> <p>17 stenographic record.</p> <p>18 The court reporter is Misty Klapper</p> <p>19 and she will now administer the oath to the</p> <p>20 witness.</p> <p>21 MS. REPORTER: One moment.</p> <p>22 Whereupon:</p> <p>23 HARLEY G. LAPPIN,</p> <p>24 was called for examination, and, after being duly</p> <p>25 sworn, was examined and testified as follows:</p>	<p style="text-align: right;">Page 7</p> <p>1 MR. GLENNON: I'm going to just</p> <p>2 object on the grounds that it calls for a</p> <p>3 legal conclusion.</p> <p>4 MS. REPORTER: Answer?</p> <p>5 THE WITNESS: Repeat the question.</p> <p>6 BY MR. FORGE:</p> <p>7 Q. Yes.</p> <p>8 Do you think it's a crime to provide</p> <p>9 false testimony after being sworn in as you were</p> <p>10 today?</p> <p>11 MR. GLENNON: Same objection.</p> <p>12 THE WITNESS: Yes.</p> <p>13 BY MR. FORGE:</p> <p>14 Q. Have you ever provided false</p> <p>15 testimony while under oath?</p> <p>16 A. No.</p> <p>17 Q. Now, Mr. Lappin, prior to going on</p> <p>18 CCA's payroll, you worked for the Bureau of</p> <p>19 Prisons, correct?</p> <p>20 A. Yes.</p> <p>21 Q. What, if any, personal role -- while</p> <p>22 you were at the Bureau of Prisons, what, if any,</p> <p>23 personal role did you have in monitoring CCA's</p> <p>24 performance for the BOP?</p> <p>25 A. We had on-site monitors --</p>
<p style="text-align: right;">Page 6</p> <p>1 MS. REPORTER: Please proceed.</p> <p>2 EXAMINATION BY COUNSEL FOR PLAINTIFF</p> <p>3 BY MR. FORGE:</p> <p>4 Q. Good morning, Mr. Lappin.</p> <p>5 A. Good morning.</p> <p>6 Q. Mr. Lappin, that oath you just took,</p> <p>7 what does it mean to you?</p> <p>8 A. Tell the truth, the whole truth and</p> <p>9 nothing but the truth.</p> <p>10 Q. Now, you've provided sworn testimony</p> <p>11 before Congress previously, correct?</p> <p>12 A. Yes.</p> <p>13 Q. You've provided sworn testimony in</p> <p>14 other settings previously, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Has that oath always meant the same</p> <p>17 thing to you as you just told us it means to you</p> <p>18 today?</p> <p>19 A. Yes.</p> <p>20 Q. So do you think you're entitled to</p> <p>21 provide false testimony after taking that oath?</p> <p>22 A. No.</p> <p>23 Q. Do you think it's a crime to provide</p> <p>24 false testimony after being sworn in as you were</p> <p>25 today?</p>	<p style="text-align: right;">Page 8</p> <p>1 MS. REPORTER: Sorry, sir. You are</p> <p>2 breaking up. Please try again.</p> <p>3 THE WITNESS: Okay.</p> <p>4 So there were a number of ways we</p> <p>5 monitored contractual compliance. We had</p> <p>6 on-site monitors full time at all locations</p> <p>7 that monitored day-to-day operations. We</p> <p>8 had an audit staff who audited those</p> <p>9 facilities. We required ACA accreditation</p> <p>10 as part of the oversight. We had a -- a</p> <p>11 team dedicated just overseeing the</p> <p>12 management of those facilities that was</p> <p>13 centralized in -- in the correctional</p> <p>14 programs department in Washington, D.C.</p> <p>15 There were -- there was contract</p> <p>16 oversight provided by a team of staff in the</p> <p>17 administration division of the Bureau of</p> <p>18 Prisons.</p> <p>19 BY MR. FORGE:</p> <p>20 Q. Okay. You did not fill any of those</p> <p>21 roles within those different teams and monitors</p> <p>22 and staff you described, did you, you personally?</p> <p>23 A. I over --</p> <p>24 (Remote transmission interference)</p> <p>25 MR. GLENNON: Mr. -- Mr. Lappin,</p>

<p style="text-align: right;">Page 9</p> <p>1 I -- I think your answer might have gotten 2 cut off. 3 THE WITNESS: Could you repeat the 4 question? 5 BY MR. FORGE: 6 Q. Sure. 7 You did not personally -- you were 8 not personally a part of the team overseeing the 9 contract administration, were you? 10 A. Not as director. I was -- I oversaw 11 the supervision of staff responsible for those 12 duties. 13 Q. So you oversaw the people who oversaw 14 them, correct? 15 A. I did. 16 Q. So you didn't -- you didn't oversee 17 that staff doing the contract administration. 18 You did not directly oversee them, correct? 19 A. I was not their direct supervisor. 20 Q. Okay. You were not part of the team 21 dedicated to overseeing the management of the 22 operations of those facilities, correct? 23 MR. GLENNON: Object to form. 24 THE WITNESS: I -- I supervised the 25 staff that oversaw that, but in doing so,</p>	<p style="text-align: right;">Page 11</p> <p>1 Q. You weren't part of the BOP's audit 2 staff that audited CCA's performance, were you, 3 sir? 4 A. Not as director. So prior to my -- 5 in my prior tour in Washington, D.C. I was in the 6 audit division and played a -- some role in the 7 auditing of all facilities, private and public 8 alike, but not as director. 9 Q. Were you ever a part of the audit 10 staff that audited CCA's performance for the BOP? 11 A. No. 12 Q. You were not part of the BOP's -- 13 you -- you were not one of the BOP's on-site 14 monitors at any of the prisons that CCA ran under 15 contract for the BOP, were you, sir? 16 A. No. 17 Q. You've never personally conducted a 18 review of a BOP-run prison's medical services, 19 have you, sir? 20 MR. GLENNON: Objection, vague. 21 THE WITNESS: Could you repeat? 22 BY MR. FORGE: 23 Q. Yes. 24 You've never personally conducted a 25 review of a BOP-run prison's medical services,</p>
<p style="text-align: right;">Page 10</p> <p>1 I had personal knowledge of the activities 2 that they carried out and the results of 3 their reviews. 4 BY MR. FORGE: 5 Q. Well, you had personal knowledge of 6 what the people you reported reported about what 7 the people they supervised reported, correct? 8 MR. GLENNON: Objection, vague. 9 THE WITNESS: Not unlike any other 10 supervisor relationship in carrying out my 11 responsibilities as a supervisor, I was 12 briefed and I was informed on significant 13 issues, general oversight by the 14 leadership of those teams that carried out 15 those responsibilities. 16 BY MR. FORGE: 17 Q. And all I'm trying to get at is you 18 were at least two levels removed from actually 19 being on the ground and directly monitoring CCA's 20 performance, correct? 21 A. One or two. It depends on which 22 function. 23 Q. Okay. So at least one and other 24 times two, correct? 25 A. Yes.</p>	<p style="text-align: right;">Page 12</p> <p>1 have you? 2 MR. GLENNON: Same objection. 3 THE WITNESS: I was the warden of a 4 federal medical center and conducted 5 internal audits, participated in internal 6 audits as a warden at a federal medical 7 center. But, no, I have not -- as 8 director, I did not personally participate 9 in a audit or program review of a medical 10 program in a bureau facility or in a 11 private contract facility. 12 BY MR. FORGE: 13 Q. When is the last time that you 14 personally conducted a review of a BOP-run 15 prison's corrections services? 16 MR. GLENNON: Objection, vague. 17 THE WITNESS: Could you repeat, 18 please? 19 BY MR. FORGE: 20 Q. Yes. 21 When is the last time, if ever, you 22 personally conducted a review of a BOP-run 23 prison's corrections services? 24 MR. GLENNON: Same objection. 25 THE WITNESS: 1990 or 1991.</p>

Page 13

1 BY MR. FORGE:

2 **Q. When is the last time, if ever, you**

3 **personally conducted a review of a BOP-run**

4 **prison's drug treatment program?**

5 MR. GLENNON: Same objection.

6 THE WITNESS: Let -- let me back

7 up.

8 I -- I -- I personally participated

9 in audits '91, '92. In '94, '5 and '6 I

10 worked in the program review division. This

11 was after the consolidation of the audit

12 functions in the bureau.

13 And as part -- and as -- in that

14 role, I did go out and participate on audits

15 as an observer to oversee the process, so

16 technically went out on audits during my

17 responsibilities when assigned to the

18 program review division of the Bureau of

19 Prisons '94, '95, '96.

20 I have not participated in a audit of

21 a Bureau of Prisons contract facility.

22 BY MR. FORGE:

23 **Q. So since you watched the folks at the**

24 **program division do their job, are you aware that**

25 **program review does not review clinical medical**

Page 14

1 **services?**

2 A. I beg to differ. Applicable to

3 Bureau of Prisons' audit guidelines, there were

4 medical practitioners on those audit teams.

5 **Q. That's not what I asked you, sir.**

6 **Are you aware that the program review**

7 **division does not -- or I guess we'll ask you**

8 **back when you were last there, because maybe it**

9 **was different back in the '90s.**

10 **Back in '94, '95 and '96 when you**

11 **were an observer for the program review division**

12 **folks actually reviewing the -- the BOP's prison**

13 **services, were you aware that the program review**

14 **division did not conduct a review of the clinical**

15 **medical care provided at the BOP prisons?**

16 A. No, I don't --

17 MR. GLENNON: Object --

18 THE WITNESS: -- recall --

19 MR. GLENNON: Object.

20 Hold -- hold -- hold on, Mr. Lappin.

21 Just let me get my objection in there,

22 please.

23 Object to form and foundation.

24 THE WITNESS: So as I recall, they

25 did review clinical care. There were

Page 15

1 medical professionals on those teams that

2 provided the assessment of the medical

3 programs in the Bureau of Prisons.

4 BY MR. FORGE:

5 **Q. When is the last time, if ever, you**

6 **personally conducted a review of a BOP-run**

7 **prison's drug treatment program?**

8 MR. GLENNON: Object to form.

9 THE WITNESS: I don't recall ever

10 participating in a review, again, unless I

11 happened to be out on one as an observer,

12 applicable to drug treatment programs.

13 BY MR. FORGE:

14 **Q. When is the last time, if ever, you**

15 **personally conducted a review of a BOP-run**

16 **prison's educational programming?**

17 A. A similar response. I could have

18 been on one as an observer, but I did not

19 participate personally in an education review.

20 **Q. So none that you can recall?**

21 A. None that I can recall.

22 **Q. Same thing with the drug treatment**

23 **program, none that you can recall?**

24 A. Yes.

25 **Q. So you know you didn't participate**

Page 16

1 **and you can't recall even observing one, correct?**

2 MR. GLENNON: Objection, vague.

3 THE WITNESS: That's a long, long

4 time ago and, no, I cannot recall.

5 BY MR. FORGE:

6 **Q. But you know you -- but you know you**

7 **didn't participate in the review, correct?**

8 MR. GLENNON: Objection, vague,

9 form.

10 THE WITNESS: That is correct.

11 BY MR. FORGE:

12 **Q. When is the last time, if ever, you**

13 **personally participated in a review of a BOP-run**

14 **prison's vocational programming?**

15 A. I don't recall participating in a

16 vocational training program review.

17 **Q. So when you worked for the BOP, you**

18 **relied on communications from others regarding**

19 **the BOP's actual performance regarding medical**

20 **services, correct?**

21 MR. GLENNON: Objection, foundation

22 and form.

23 THE WITNESS: Typically, yes.

24 BY MR. FORGE:

25 **Q. And when you worked for the BOP, you**

<p style="text-align: right;">Page 25</p> <p>1 deficiencies and types of deficiencies that the</p> <p>2 BOP found at CCA's BOP-run facilities, correct?</p> <p>3 A. As I recall, there was a report that</p> <p>4 generated -- compiled the deficiencies identified</p> <p>5 at audits carried out at bureau -- Bureau of</p> <p>6 Prisons facilities as well as our private</p> <p>7 contract facilities.</p> <p>8 And, you know, I -- I don't recall</p> <p>9 how often that was compiled, but it was one set</p> <p>10 of statistics that we did review. And that would</p> <p>11 have been prior to my leaving the Bureau of</p> <p>12 Prisons in 2011.</p> <p>13 Q. And that's all I'm trying to confirm.</p> <p>14 You have not received those reports</p> <p>15 regarding a for-profit prison, such as CCA, since</p> <p>16 leaving the Bureau of Prisons in 2011, correct?</p> <p>17 MR. GLENNON: Objection, vague --</p> <p>18 THE WITNESS: Not --</p> <p>19 MR. GLENNON: -- form.</p> <p>20 THE WITNESS: Not to my knowledge,</p> <p>21 no.</p> <p>22 BY MR. FORGE:</p> <p>23 Q. It's -- it is -- so what I said is</p> <p>24 correct?</p> <p>25 MR. GLENNON: Object to form.</p>	<p style="text-align: right;">Page 27</p> <p>1 extensively?</p> <p>2 A. A deposition.</p> <p>3 Q. And by extensively, do you mean for</p> <p>4 more than one day?</p> <p>5 A. For more than one day.</p> <p>6 Q. More than one week?</p> <p>7 A. No.</p> <p>8 Q. Other than your testimony in a</p> <p>9 deposition regarding the federal execution</p> <p>10 protocols concerning carrying out the death</p> <p>11 penalty back in 2004/2005, have you ever</p> <p>12 testified as an expert?</p> <p>13 A. No.</p> <p>14 MR. GLENNON: Objection.</p> <p>15 Objection, calls for a legal conclusion.</p> <p>16 THE WITNESS: Not that I recall.</p> <p>17 BY MR. FORGE:</p> <p>18 Q. To your knowledge, has any court ever</p> <p>19 accepted or admitted into evidence any opinion</p> <p>20 from you?</p> <p>21 MR. GLENNON: Objection, vague.</p> <p>22 THE WITNESS: I really don't know.</p> <p>23 There -- there were a lot of opinions</p> <p>24 rendered under the name of the director of</p> <p>25 the Bureau of Prisons. I was not privy to</p>
<p style="text-align: right;">Page 26</p> <p>1 THE WITNESS: That is correct.</p> <p>2 BY MR. FORGE:</p> <p>3 Q. Have you ever testified as an expert</p> <p>4 before?</p> <p>5 MR. GLENNON: Objection, calls for</p> <p>6 a legal conclusion.</p> <p>7 THE WITNESS: Yes.</p> <p>8 BY MR. FORGE:</p> <p>9 Q. When?</p> <p>10 A. I believe it was -- I -- I'm -- I</p> <p>11 testified as the Bureau of Prisons' expert on the</p> <p>12 execution protocol, the federal execution</p> <p>13 protocol carrying out the death penalty in the</p> <p>14 Bureau of Prisons, probably around 2004 or 2005.</p> <p>15 I -- I can't remember the date, but it was in the</p> <p>16 aftermath of the first three federal executions</p> <p>17 carried out by the Bureau of Prisons in 2001 and</p> <p>18 2003.</p> <p>19 So I -- I cannot remember the date.</p> <p>20 I'm not sure I could remember the year. I just</p> <p>21 know that I testified extensively on the Federal</p> <p>22 Bureau of Prisons' execution protocol and</p> <p>23 procedures.</p> <p>24 Q. When you say you testified</p> <p>25 extensively, in what forum did you testify</p>	<p style="text-align: right;">Page 28</p> <p>1 what was submitted or what was accepted.</p> <p>2 So I -- I really -- I really don't know.</p> <p>3 BY MR. FORGE:</p> <p>4 Q. Have you written any reports that set</p> <p>5 forth any opinions that you may have reached in</p> <p>6 this case?</p> <p>7 A. No.</p> <p>8 Q. Have you made any notes related to</p> <p>9 any opinions you may have reached in this case?</p> <p>10 A. No.</p> <p>11 Q. Did you personally put in writing any</p> <p>12 opinions that you may have reached in this case?</p> <p>13 MR. GLENNON: Objection, vague,</p> <p>14 form.</p> <p>15 THE WITNESS: Could you repeat the</p> <p>16 question?</p> <p>17 BY MR. FORGE:</p> <p>18 Q. Yes.</p> <p>19 Did you personally put in writing any</p> <p>20 opinions you've reached in this case?</p> <p>21 A. No.</p> <p>22 MR. GLENNON: Same objection.</p> <p>23 THE WITNESS: No.</p> <p>24 BY MR. FORGE:</p> <p>25 Q. Did you verbally dictate to anyone</p>

<p style="text-align: right;">Page 29</p> <p>1 the -- any opinions you may have reached in this</p> <p>2 case?</p> <p>3 MR. GLENNON: Same objections.</p> <p>4 THE WITNESS: No.</p> <p>5 BY MR. FORGE:</p> <p>6 Q. Did anyone else tell you the opinions</p> <p>7 they intend for you to give in this case?</p> <p>8 A. No.</p> <p>9 Q. Did anyone else inform you in any way</p> <p>10 of the opinions they intend for you to give in</p> <p>11 this case?</p> <p>12 MR. GLENNON: Objection, vague,</p> <p>13 form.</p> <p>14 THE WITNESS: No.</p> <p>15 BY MR. FORGE:</p> <p>16 Q. Are you aware of any opinions that</p> <p>17 you've reached in this case?</p> <p>18 A. I'm not sure I understand what you</p> <p>19 mean by that.</p> <p>20 Q. Have you reached any opinions in this</p> <p>21 case?</p> <p>22 A. I have my own opinions of this case.</p> <p>23 And those are based on my experience and</p> <p>24 oversight of the correctional programs or</p> <p>25 correctional responsibilities at CCA.</p>	<p style="text-align: right;">Page 31</p> <p>1 So, I -- I mean, I can't deny we've</p> <p>2 had conversations about issues related to</p> <p>3 this case, such as in the aftermath of the</p> <p>4 Yates memo or some other related issues, but</p> <p>5 I can't -- don't recall having a -- a</p> <p>6 conversation with anyone other than my</p> <p>7 attorneys about -- specific to this case.</p> <p>8 BY MR. FORGE:</p> <p>9 Q. Okay. Now, you said that -- that the</p> <p>10 opinions you have in this case are based on your</p> <p>11 experience and oversight of the correctional</p> <p>12 programs or correctional responsibilities at CCA,</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. And your experience and oversight of</p> <p>16 the correctional programs and correctional</p> <p>17 responsibilities at CCA was primarily based on</p> <p>18 communications with other CCA employees, correct?</p> <p>19 MR. GLENNON: Objection, vague,</p> <p>20 foundation.</p> <p>21 THE WITNESS: In part. Granted,</p> <p>22 I -- as the chief corrections officer, I</p> <p>23 oversaw a lot of employees, many of whom I</p> <p>24 relied heavily on for their supervision of</p> <p>25 the programs and operations applicable to</p>
<p style="text-align: right;">Page 30</p> <p>1 Q. Have you shared those opinions with</p> <p>2 anyone?</p> <p>3 A. Only through this deposition.</p> <p>4 Q. Other than that, you have not shared</p> <p>5 them with anyone?</p> <p>6 A. Well, I'm -- let's see here.</p> <p>7 MR. GLENNON: Mr. Lappin, you --</p> <p>8 (Crosstalk)</p> <p>9 MR. GLENNON: Mr. -- Mr. Lappin,</p> <p>10 you can answer to the extent it doesn't</p> <p>11 disclose attorney/client privilege.</p> <p>12 BY MR. FORGE:</p> <p>13 Q. No, I'm -- I'm asking if he shared</p> <p>14 with anyone. I'm not asking you to identify</p> <p>15 anyone. I'm just asking if you shared with</p> <p>16 anyone.</p> <p>17 A. So I have had very little contact</p> <p>18 with people other than my attorneys on this case.</p> <p>19 This -- this all evolved after I retired from</p> <p>20 the -- or after I left CCA and moved on to the</p> <p>21 board.</p> <p>22 So I have shared opinions about some</p> <p>23 issues related to this case obviously that were</p> <p>24 work related, but not specifically related to</p> <p>25 this case.</p>	<p style="text-align: right;">Page 32</p> <p>1 carrying out a quality correctional</p> <p>2 program.</p> <p>3 I went out and observed. I was out</p> <p>4 in facilities myself, visited, engaged with</p> <p>5 staff, observed the programs being provided.</p> <p>6 So it was a combination of the input and the</p> <p>7 dialogue that occurred between myself and my</p> <p>8 subordinate supervisors, my vice presidents,</p> <p>9 the managing directors, the wardens, the</p> <p>10 associate wardens and line staff that I</p> <p>11 engaged with over the course of my</p> <p>12 responsibilities.</p> <p>13 So I don't believe it was solely</p> <p>14 based on just information I received from my</p> <p>15 subject matter experts, but my observation</p> <p>16 of those programs when I visited those</p> <p>17 facilities, as well as the review of reports</p> <p>18 from audits and other evaluations that were</p> <p>19 conducted over the course of business.</p> <p>20 BY MR. FORGE:</p> <p>21 Q. And by communications, I didn't mean</p> <p>22 to limit you to just verbal communications. I'm</p> <p>23 including in that written communications.</p> <p>24 So your communicate -- with that</p> <p>25 understanding in mind, the communications with</p>

<p style="text-align: right;">Page 33</p> <p>1 other employees at CCA, those were the primary 2 source of information upon which you based any 3 opinions you may have formed in this case, 4 correct? 5 MR. GLENNON: Objection, vague, 6 form. 7 THE WITNESS: I am speaking to my 8 experience applicable to the day-to-day 9 operations. If you're speaking to the 10 stock drop, completely out of my area of 11 expertise, knowledge. 12 BY MR. FORGE: 13 Q. No, I'm not -- I'm assuming you have 14 not rendered any opinion -- you have not -- I'm 15 assuming you have not made any opinions regarding 16 the stock drop, right? 17 A. None. 18 Q. Okay. So that's -- 19 A. Other than -- other than my own. 20 Q. Other than your own stock drop? 21 A. Oh, only my own, you know, opinion 22 of, you know, why -- you know, again, as we 23 discussed the last time, first time I'd ever 24 worked for a private company. It's the first 25 time I've worked with a company that had</p>	<p style="text-align: right;">Page 35</p> <p>1 other supervisory and subject matter experts, as 2 well as my review of reports and documents and my 3 own observations that I made as I visited our 4 facilities throughout the book of business, 5 throughout the country. 6 And -- and, I -- I should say, 7 included discussions with partners, without a 8 doubt, partners, my discussions with inmates. 9 All -- all of those interactions influenced 10 obviously my opinion of our performance, quality 11 of performance, the challenges we had. 12 So many vehicles by which I was 13 gathering information that ultimately would 14 result in my opinion of -- of what we needed to 15 do and what we didn't need to do and -- and how 16 to carry out our day-to-day operations. 17 Q. Given that broad array of vehicles, 18 to use your term, can you identify any specific 19 communications in particular that had a high 20 degree of influence over your opinions or do they 21 all kind of combine together? 22 MR. GLENNON: Objection, vague. 23 THE WITNESS: Yeah, I -- I can't -- 24 it -- it really depended on the situation 25 and -- and what the issue was. But I</p>
<p style="text-align: right;">Page 34</p> <p>1 stockholders and shareholders and so on and so 2 forth and so completely outside my area of 3 expertise. 4 And, granted, involved in some 5 discussions whenever there was a -- some 6 fluctuation in stock, but I was on the periphery. 7 I -- I was not in the -- in the -- in -- a 8 subject matter expert in any way on this issue. 9 Q. And that's why we're -- we're -- so 10 when we're talking about any opinions you may 11 have formed in this case, I'm talking about 12 opinions that you described earlier regarding 13 corrections services or corrections programs at 14 CCA, okay? 15 A. Yes. So my opinions of -- of -- 16 Q. No, I asked you -- I'm not asking for 17 the opinions now. I'm just asking you to -- if 18 you understand that's the -- those are the types 19 of opinions we're talking about. 20 A. My opinions applicable to our level 21 of performance, quality of programs, my opinions 22 of the challenges we encountered, all of those 23 issues applicable to the day-to-day operations, 24 my opinions were generated by my communications 25 with my vice presidents, managing directors,</p>	<p style="text-align: right;">Page 36</p> <p>1 cannot pick a particular vehicle or piece 2 of communication or type of communication 3 that was more influential than others. 4 So, no, I -- I cannot. 5 BY MR. FORGE: 6 Q. So, for example, I'm sure one form of 7 communication which -- you know, which was a 8 basis for whatever opinions you may have formed, 9 I'm sure one form of communication were E-mails 10 you received; is that right? 11 A. That was a form of communication, 12 yes. 13 Q. And you can't identify for me any 14 particular E-mails that stand out as particularly 15 helpful or unhelpful in forming your opinions, 16 can you? 17 MR. GLENNON: Objection, vague. 18 THE WITNESS: No, I cannot. 19 BY MR. FORGE: 20 Q. And some of those you -- you 21 described certain categories of CCA employees 22 with whom you had these communications. 23 Did you have communications that 24 involved -- I'm not asking for the substance of 25 them, but did these communications you've</p>

<p style="text-align: right;">Page 37</p> <p>1 described as being one of the vehicles that</p> <p>2 helped you form your opinion, did these</p> <p>3 communications involve CCA's in-house counsel</p> <p>4 from time to time?</p> <p>5 A. Had discussions with the in-house</p> <p>6 counsel on appropriate operational --</p> <p>7 MR. GLENNON: Let me -- let me --</p> <p>8 let me stop you, Mr. Lappin. That's --</p> <p>9 that's not really the question that he was</p> <p>10 asking you and I don't want you to divulge</p> <p>11 the content of communication --</p> <p>12 THE WITNESS: Okay.</p> <p>13 BY MR. FORGE:</p> <p>14 Q. But you don't have to --</p> <p>15 MR. GLENNON: -- between you and</p> <p>16 counsel.</p> <p>17 BY MR. FORGE:</p> <p>18 Q. And -- and again, Mr. Lappin, you</p> <p>19 don't have to get into the substance of the</p> <p>20 communications that involve counsel. I'm just</p> <p>21 trying to confirm that this -- this category,</p> <p>22 this vehicle that helped you form the opinions</p> <p>23 that you may have formed in this case, that those</p> <p>24 included communications that involved in-house</p> <p>25 counsel. And you don't have to tell me --</p>	<p style="text-align: right;">Page 39</p> <p>1 BY MR. FORGE:</p> <p>2 Q. I'm not asking you for the substance.</p> <p>3 I'm asking you for the -- the -- the -- the</p> <p>4 subject matter.</p> <p>5 Did you ever have any</p> <p>6 communications -- were you ever a participant in</p> <p>7 any, let's say, E-mail that involved CCA's</p> <p>8 in-house counsel and where the E-mail or an</p> <p>9 attachment to the E-mail concerned CCA's</p> <p>10 operations?</p> <p>11 MR. GLENNON: I'm going to --</p> <p>12 same -- same objection. I'm going to</p> <p>13 instruct the witness not to answer. I --</p> <p>14 I don't think there's any way he can</p> <p>15 answer, given --</p> <p>16 (Remote transmission interference)</p> <p>17 MS. REPORTER: You broke up,</p> <p>18 Mr. Glennon.</p> <p>19 MR. GLENNON: I'm sorry. Can</p> <p>20 you -- I didn't hear what you said, Misty.</p> <p>21 MS. REPORTER: I said you broke up,</p> <p>22 Mr. Glennon.</p> <p>23 MR. GLENNON: Oh, okay. Can you</p> <p>24 hear me okay now?</p> <p>25 MS. REPORTER: Yes, sir.</p>
<p style="text-align: right;">Page 38</p> <p>1 A. In -- in this case. You're narrowing</p> <p>2 it down to this case?</p> <p>3 Q. Correct.</p> <p>4 A. I have not -- I don't recall having a</p> <p>5 conversation with the general counsel.</p> <p>6 Q. I'm -- I'm sorry. I -- I meant</p> <p>7 communications related to this -- this case.</p> <p>8 So -- or, I'm sorry, opinions related to this</p> <p>9 case.</p> <p>10 So remember, opinions related to this</p> <p>11 case, we're talking about CCA's performance of</p> <p>12 its corrections responsibilities and its</p> <p>13 corrections operations.</p> <p>14 And you said one of the vehicles upon</p> <p>15 which you based whatever opinions you might have</p> <p>16 consisted of communications with CCA employees,</p> <p>17 correct?</p> <p>18 A. Yes, but primarily applicable to</p> <p>19 operations, I was talking with operations staff.</p> <p>20 Q. Okay. So would you have not had any</p> <p>21 communications involving CCA's in-house counsel</p> <p>22 that concerned CCA's operations?</p> <p>23 MR. GLENNON: I'm going to object</p> <p>24 and instruct the witness not to answer on</p> <p>25 the grounds of attorney/client privilege.</p>	<p style="text-align: right;">Page 40</p> <p>1 MR. GLENNON: Okay. Sorry about</p> <p>2 that. I'll just restate my objection.</p> <p>3 I -- I'm objecting on the basis of</p> <p>4 attorney/client privilege and instruct the</p> <p>5 witness not to answer because I don't think</p> <p>6 as framed, the witness can answer without</p> <p>7 revealing the subject matter of the</p> <p>8 communications he may have had with in-house</p> <p>9 counsel.</p> <p>10 BY MR. FORGE:</p> <p>11 Q. So all of those vehicles that you've</p> <p>12 been describing, Mr. Lappin, do you maintain any</p> <p>13 summaries of all of those inputs?</p> <p>14 A. No, I do not.</p> <p>15 Q. So, for example, if someone wanted to</p> <p>16 compare your opinion to the basis for your</p> <p>17 opinion, could you point me to a stack of</p> <p>18 documents that you are presently relying on for</p> <p>19 any opinions you might have related to this case?</p> <p>20 A. No.</p> <p>21 Q. If someone wanted to compare your</p> <p>22 opinion to the basis for your opinion, could you</p> <p>23 point me to a specific conversation you had with</p> <p>24 any identifiable individual?</p> <p>25 MR. GLENNON: Objection, vague.</p>

<p style="text-align: right;">Page 41</p> <p>1 THE WITNESS: No.</p> <p>2 BY MR. FORGE:</p> <p>3 Q. If someone wanted to compare your</p> <p>4 opinions to the basis for your opinions, could</p> <p>5 you point me to any specific E-mails on which you</p> <p>6 relied or which you considered for your opinions?</p> <p>7 MR. GLENNON: Objection, vague.</p> <p>8 THE WITNESS: I personally have</p> <p>9 retained nothing. What you have is what</p> <p>10 you received from the company, some of</p> <p>11 which may have -- I have -- I probably</p> <p>12 reviewed, but I -- I have no E-mails. I</p> <p>13 have no documents. I -- I -- and this is</p> <p>14 not just true of CCA. I relied on the</p> <p>15 company's retention policy to provide</p> <p>16 disclosure, documents, E-mails, not only</p> <p>17 at CCA. I took the same approach at the</p> <p>18 Bureau of Prisons.</p> <p>19 So I -- I didn't retain anything. I</p> <p>20 have nothing that I can point to, other than</p> <p>21 what you may already have, that's been</p> <p>22 provided by the company.</p> <p>23 BY MR. FORGE:</p> <p>24 Q. So you're relying on your memory?</p> <p>25 MR. GLENNON: Objection,</p>	<p style="text-align: right;">Page 43</p> <p>1 Tomkowiak and David Schindler, have</p> <p>2 managed to comport themselves consistent</p> <p>3 with the agreement that you object as to</p> <p>4 form.</p> <p>5 If you're going to continue to object</p> <p>6 beyond that, let's just stop and call</p> <p>7 Judge Frensley.</p> <p>8 The objection is form. We have</p> <p>9 specifically said that that objection</p> <p>10 enables you to preserve any objections that</p> <p>11 you could articulate.</p> <p>12 MR. GLENNON: I -- I -- I don't</p> <p>13 understand that to be the agreement. My</p> <p>14 understanding is different in scope.</p> <p>15 If -- if we want to speak with Judge</p> <p>16 Frensley, we can. I think my --</p> <p>17 MR. FORGE: Then let's -- then</p> <p>18 let's stop. Let's stop. When -- when the</p> <p>19 witness is saying yeah after you -- after</p> <p>20 you give a -- a speaking objection, it's</p> <p>21 pretty clear that you're coaching him. So</p> <p>22 let's -- let's stop and let's call Judge</p> <p>23 Frensley's chambers unless you're going to</p> <p>24 agree now that you will limit your</p> <p>25 objections to simply saying form with the</p>
<p style="text-align: right;">Page 42</p> <p>1 mischaracterizes the testimony,</p> <p>2 foundation.</p> <p>3 THE WITNESS: Yeah, I -- I don't</p> <p>4 agree with that. I mean, obviously I</p> <p>5 reviewed documents. I -- I interacted</p> <p>6 with people on a day-to-day course of</p> <p>7 action. And -- and in doing so, you --</p> <p>8 you -- you develop a -- a -- a sense of</p> <p>9 understanding and, as a consequence, an</p> <p>10 opinion.</p> <p>11 But I don't have a stack of documents</p> <p>12 or E-mails or voicemails or anything else</p> <p>13 that -- on anything, not just this case. I</p> <p>14 don't have it on anything applicable to the</p> <p>15 operations of CCA. I don't -- I didn't</p> <p>16 retain any of those things.</p> <p>17 BY MR. FORGE:</p> <p>18 Q. And -- and you haven't had any of</p> <p>19 those things for years, correct?</p> <p>20 MR. GLENNON: Objection, vague,</p> <p>21 foundation, mischaracterizes the</p> <p>22 testimony.</p> <p>23 MR. FORGE: Brian, the objection is</p> <p>24 form. We just went over this yesterday</p> <p>25 with Sarah. Your two partners, both Sarah</p>	<p style="text-align: right;">Page 44</p> <p>1 understanding that I'm allowing that word</p> <p>2 to preserve any preservable objections you</p> <p>3 could make.</p> <p>4 MR. GLENNON: I -- I'm not willing</p> <p>5 to agree with that. As I -- as I</p> <p>6 understand it --</p> <p>7 MR. FORGE: Okay.</p> <p>8 MR. GLENNON: I -- let -- let me</p> <p>9 just make my record, if I could, and --</p> <p>10 MR. FORGE: Sure.</p> <p>11 MR. GLENNON: -- do it -- I'll do</p> <p>12 it in -- in general form.</p> <p>13 I understood Judge Frensley's</p> <p>14 direction in that regard as relating to a</p> <p>15 specific objection and not what you would</p> <p>16 view as typical objections under the Federal</p> <p>17 Rules of Civil Procedure. And -- and I</p> <p>18 would take issue with categorizing the last</p> <p>19 objection, which triggered this discussion,</p> <p>20 as being a speaking objection. But I'm --</p> <p>21 I'm happy to seek clarification from the</p> <p>22 special master.</p> <p>23 MR. FORGE: Sure.</p> <p>24 Let's take a break and call -- let's</p> <p>25 go off the record.</p>

<p style="text-align: right;">Page 45</p> <p>1 MR. GLENNON: Or excuse me. Excuse</p> <p>2 me, Magistrate Judge Frensey. Excuse me.</p> <p>3 MR. FORGE: Let's -- let's go off</p> <p>4 the record and call Magistrate Judge</p> <p>5 Frensey.</p> <p>6 VIDEO OPERATOR: Going off the</p> <p>7 record at 11:31 a.m.</p> <p>8 (Thereupon, a brief recess was</p> <p>9 taken.)</p> <p>10 VIDEO OPERATOR: We are back on the</p> <p>11 video record at 11:39 a.m.</p> <p>12 BY MR. FORGE:</p> <p>13 Q. So, Mr. Lappin, before we broke you</p> <p>14 were saying that you -- I -- you said, I don't</p> <p>15 have a stack of documents or E-mails or</p> <p>16 voicemails or anything else. I don't have --</p> <p>17 have it on anything applicable to the operations</p> <p>18 of CCA. I didn't retain any of those things.</p> <p>19 Right?</p> <p>20 MR. GLENNON: Objection,</p> <p>21 foundation, vague.</p> <p>22 THE WITNESS: That is correct.</p> <p>23 I -- I did not personally retain those</p> <p>24 materials.</p> <p>25</p>	<p style="text-align: right;">Page 47</p> <p>1 there were probably some E-mails</p> <p>2 applicable to our operations, yes.</p> <p>3 BY MR. FORGE:</p> <p>4 Q. And -- and what I'm trying to get at,</p> <p>5 though, I know there were E-mails applicable to</p> <p>6 operations. I'm just asking you is that type of</p> <p>7 communication -- and I'm not going to quiz you on</p> <p>8 what was in them, but is that the type of</p> <p>9 communication that we're talking about as would</p> <p>10 have helped you form your opinions regarding</p> <p>11 CCA's operations?</p> <p>12 MR. GLENNON: Same objection.</p> <p>13 THE WITNESS: Oh, certainly there</p> <p>14 were E-mails. But there were also many,</p> <p>15 probably more, extensive phone</p> <p>16 conversations on -- on issues of concern.</p> <p>17 So when -- whenever we had a -- a</p> <p>18 significant incident or concern, depending</p> <p>19 on the urgency, there were a lot of</p> <p>20 primarily phone communication applicable</p> <p>21 to those issues.</p> <p>22 So whether it was report, E-mail,</p> <p>23 phone conversation, all of these things</p> <p>24 combined were used as -- as valuable</p> <p>25 information on a variety of -- of issues</p>
<p style="text-align: right;">Page 46</p> <p>1 BY MR. FORGE:</p> <p>2 Q. Okay. And so you -- you can only</p> <p>3 rely on your memory of those materials, correct?</p> <p>4 MR. GLENNON: Object to form.</p> <p>5 THE WITNESS: At the -- at the</p> <p>6 moment, yes. I don't have those documents</p> <p>7 in my possession.</p> <p>8 BY MR. FORGE:</p> <p>9 Q. Now, do your experiences -- and I</p> <p>10 know you can't remember the documents in your</p> <p>11 possession, but would the type of documents that</p> <p>12 helped you form whatever opinions you have</p> <p>13 related to CCA's operations, would those types of</p> <p>14 documents include, for example, CCA's own</p> <p>15 after-action reports at its different facilities?</p> <p>16 MR. GLENNON: Objection, vague.</p> <p>17 THE WITNESS: Yes.</p> <p>18 BY MR. FORGE:</p> <p>19 Q. Would they concern E-mails that</p> <p>20 related to CCA's general company operations and</p> <p>21 BOP contracts?</p> <p>22 MR. GLENNON: Same objection.</p> <p>23 THE WITNESS: I'm sure there were</p> <p>24 E-mails. I didn't do a -- a extensive</p> <p>25 communication via E-mails, but -- but</p>	<p style="text-align: right;">Page 48</p> <p>1 applicable to correctional operations.</p> <p>2 BY MR. FORGE:</p> <p>3 Q. And by valuable information, you mean</p> <p>4 all of those things combined helped you form your</p> <p>5 opinions regarding the correctional operations?</p> <p>6 A. Yes.</p> <p>7 MR. GLENNON: Same objection.</p> <p>8 BY MR. FORGE:</p> <p>9 Q. Okay. And so --</p> <p>10 A. Yes.</p> <p>11 Q. And so -- believe me, if you and I</p> <p>12 were just talking, you know, over a drink or</p> <p>13 something, throwing all those different things</p> <p>14 together at once would be by far the better way</p> <p>15 to communicate. But I just have to take it step</p> <p>16 by step. So please don't misinterpret -- when I</p> <p>17 give you a -- a type of document, I'm not trying</p> <p>18 to imply that that was the only type of document</p> <p>19 or the only basis or even the most significant</p> <p>20 one.</p> <p>21 So I -- I hear you on the</p> <p>22 conversations. I assume, you know, you can't</p> <p>23 remember specific conversations any more than you</p> <p>24 can remember specific documents, correct?</p> <p>25 MR. GLENNON: Objection, vague.</p>

<p style="text-align: right;">Page 49</p> <p>1 THE WITNESS: Correct.</p> <p>2 BY MR. FORGE:</p> <p>3 Q. But you know that conversations with</p> <p>4 your coworkers helped you form whatever opinions</p> <p>5 you have about CCA's corrections operations,</p> <p>6 right?</p> <p>7 MR. GLENNON: Objection. Same</p> <p>8 objection.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MR. FORGE:</p> <p>11 Q. And among the types of E-mails that</p> <p>12 helped you form your opinions would be E-mails</p> <p>13 that related to CCA's general company operations,</p> <p>14 correct?</p> <p>15 MR. GLENNON: Same objection.</p> <p>16 THE WITNESS: Yes.</p> <p>17 BY MR. FORGE:</p> <p>18 Q. Also among the documents that would</p> <p>19 have helped you form your opinions related to</p> <p>20 CCA's corrections operations would have been</p> <p>21 E-mails related to BOP contracts, correct?</p> <p>22 MR. GLENNON: Same objection.</p> <p>23 THE WITNESS: Yes.</p> <p>24 BY MR. FORGE:</p> <p>25 Q. E-mails related to OIG audits,</p>	<p style="text-align: right;">Page 51</p> <p>1 foundation.</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MR. FORGE:</p> <p>4 Q. Actual after-action reports related</p> <p>5 to Cibola would go into this mix of information</p> <p>6 that helped you form your opinions, correct?</p> <p>7 MR. GLENNON: Same objections,</p> <p>8 foundation.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MR. FORGE:</p> <p>11 Q. After -- actual after-action reports</p> <p>12 for Adams would go into the general mix of</p> <p>13 information that helped you form your opinions,</p> <p>14 correct?</p> <p>15 MR. GLENNON: Same objection.</p> <p>16 THE WITNESS: Yes.</p> <p>17 BY MR. FORGE:</p> <p>18 Q. E-mails related to, for example,</p> <p>19 CCA's CAR XV proposal would go into this same mix</p> <p>20 to help you form your opinions, correct?</p> <p>21 MR. GLENNON: Same objection.</p> <p>22 THE WITNESS: Pretty specific.</p> <p>23 I -- I -- if there were E-mails applicable</p> <p>24 to CAR XV that had an operational nature,</p> <p>25 would have been considered.</p>
<p style="text-align: right;">Page 50</p> <p>1 correct?</p> <p>2 MR. GLENNON: Same objection and</p> <p>3 vague.</p> <p>4 THE WITNESS: A bit too specific,</p> <p>5 didn't have a whole lot of OIG audits in</p> <p>6 the private sector, but I can't deny -- I</p> <p>7 can't say there were no E-mails, but</p> <p>8 it's -- it's a very infrequent occurrence</p> <p>9 in -- or it has been in the -- in the past</p> <p>10 OIG audits. So -- but there could have</p> <p>11 been E-mails applicable to that.</p> <p>12 BY MR. FORGE:</p> <p>13 Q. And -- and to the extent there were</p> <p>14 E-mails related to OIG audits, that -- that would</p> <p>15 go in the mix with all these other things to help</p> <p>16 you form your opinion, correct?</p> <p>17 MR. GLENNON: Objection --</p> <p>18 THE WITNESS: Yes.</p> <p>19 MR. GLENNON: -- vague.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MR. FORGE:</p> <p>22 Q. E-mails relating to Cibola</p> <p>23 after-action analysis, that would have gone into</p> <p>24 the mix to help you form your opinions, correct?</p> <p>25 MR. GLENNON: Objection, vague,</p>	<p style="text-align: right;">Page 52</p> <p>1 BY MR. FORGE:</p> <p>2 Q. So, for example, if there are E-mails</p> <p>3 related to CAR XV that concerned CCA's past</p> <p>4 performance of the facilities, that would go into</p> <p>5 the mix of information that you considered in</p> <p>6 forming your opinions, correct?</p> <p>7 MR. GLENNON: Same objections.</p> <p>8 THE WITNESS: Yes.</p> <p>9 BY MR. FORGE:</p> <p>10 Q. Now, Mr. Lappin, have you read --</p> <p>11 have you received the transcript from your</p> <p>12 July 28, 2020 deposition in this case?</p> <p>13 A. Yes.</p> <p>14 Q. Have you read every line of it?</p> <p>15 A. I can't say I read every line of it,</p> <p>16 but I read through the deposition.</p> <p>17 Q. When?</p> <p>18 A. Probably a day or two after I got a</p> <p>19 copy of it.</p> <p>20 Q. When did you get a copy of it?</p> <p>21 A. I -- I -- I don't know when I got a</p> <p>22 copy of it. It was a week, 10 days, I think,</p> <p>23 after the deposition.</p> <p>24 Q. Did you receive that copy</p> <p>25 electronically or in paper form?</p>

<p style="text-align: right;">Page 97</p> <p>1 that it didn't happen.</p> <p>2 BY MR. FORGE:</p> <p>3 Q. As you sit here today, you cannot</p> <p>4 identify a single BOP-run low security facility</p> <p>5 that failed to notify local law enforcement for</p> <p>6 nearly [REDACTED] later than required in the event</p> <p>7 of a riot, can you, sir?</p> <p>8 MR. GLENNON: Object to form,</p> <p>9 vague.</p> <p>10 THE WITNESS: Too many -- too many</p> <p>11 incidents to recall. I'd have -- again,</p> <p>12 there were disturbances in Bureau of</p> <p>13 Prisons facilities.</p> <p>14 No, I -- I can't sit here and recall</p> <p>15 in each of those incidents the timing of</p> <p>16 which law enforcement was notified.</p> <p>17 BY MR. FORGE:</p> <p>18 Q. You have not performed any</p> <p>19 statistical analysis of CCA's -- this year, in</p> <p>20 the year 2020, you have not performed any</p> <p>21 statistical analysis of CCA's performance for the</p> <p>22 Bureau of Prisons back in the 2012 through 2016</p> <p>23 time frame, have you, sir?</p> <p>24 A. No.</p> <p>25 Q. You have not asked anyone else to</p>	<p style="text-align: right;">Page 99</p> <p>1 A. Yes.</p> <p>2 Q. You agree that it would be</p> <p>3 indefensible to suggest that these overhead costs</p> <p>4 of the BOP should not be counted against a</p> <p>5 for-profit operator if there is to be an accurate</p> <p>6 accounting of how much it costs to incarcerate</p> <p>7 inmates in a for-profit prison, correct?</p> <p>8 MR. GLENNON: Object. Objection,</p> <p>9 vague, form, foundation.</p> <p>10 THE WITNESS: That's a pretty</p> <p>11 general question.</p> <p>12 I will not deny that there are --</p> <p>13 within that group, there are a -- a number</p> <p>14 of personnel whose sole responsibility is to</p> <p>15 provide the support oversight for the</p> <p>16 operation of private prisons. And I</p> <p>17 wouldn't deny that those costs could be</p> <p>18 included in the cost of the -- the</p> <p>19 operations applicable to private prisons.</p> <p>20 There are a few of those folks who</p> <p>21 did this as part of a -- as part of their</p> <p>22 normal duties. They weren't -- they weren't</p> <p>23 designating -- I'll -- I'll give you an</p> <p>24 example, contracting staff.</p> <p>25 There were probably contracting staff</p>
<p style="text-align: right;">Page 98</p> <p>1 perform any statistical analysis for you</p> <p>2 regarding CCA's performance for the BOP back in</p> <p>3 2012 through 2016, have you, sir?</p> <p>4 A. No.</p> <p>5 Q. You have not reviewed any statistical</p> <p>6 analysis of CCA's -- this year you have not</p> <p>7 reviewed any statistical analysis of CCA's</p> <p>8 performance for the Bureau of Prisons in the 2012</p> <p>9 through 2016 time frame, have you, sir?</p> <p>10 A. Not that I recall.</p> <p>11 Q. And those answers would all be the</p> <p>12 same for the year 2019, correct, sir?</p> <p>13 MR. GLENNON: Objection, vague.</p> <p>14 THE WITNESS: For their performance</p> <p>15 in 2019?</p> <p>16 BY MR. FORGE:</p> <p>17 Q. Yes, sir.</p> <p>18 A. That is correct.</p> <p>19 Q. Now, you mentioned a number of things</p> <p>20 earlier that the BOP provides for a private</p> <p>21 prison operator, such as on-site monitors, audit</p> <p>22 staff, a team dedicated to overseeing management,</p> <p>23 a team that oversees contract administration.</p> <p>24 Do you remember all of those</p> <p>25 different support items that you identified?</p>	<p style="text-align: right;">Page 100</p> <p>1 that served both the bureau needs in the way</p> <p>2 of contracts, as well as private. So there</p> <p>3 may be some exceptions to that, but, you</p> <p>4 know, there were -- there were a number of</p> <p>5 staff designated to support and oversee</p> <p>6 private prisons, primarily those that were</p> <p>7 in the prisons and certainly those that were</p> <p>8 in the privatization branch.</p> <p>9 And -- no, I -- I could see where</p> <p>10 that would be appropriate to calculate as</p> <p>11 part of the cost to operate in the private</p> <p>12 prisons.</p> <p>13 BY MR. FORGE:</p> <p>14 Q. You have previously stated, have you</p> <p>15 not, sir, that it would be indefensible to</p> <p>16 suggest that these overhead costs of the BOP</p> <p>17 should not be counted against a private operator</p> <p>18 if there is to be an accurate accounting of how</p> <p>19 much it costs to incarcerate inmates in a private</p> <p>20 prison?</p> <p>21 MR. GLENNON: Objection, form,</p> <p>22 foundation.</p> <p>23 THE WITNESS: I'm not sure I</p> <p>24 understand your question. I -- I thought</p> <p>25 I answered it.</p>

<p style="text-align: right;">Page 101</p> <p>1 I -- I believe that it would be</p> <p>2 appropriate to count those costs as part of</p> <p>3 the expense of operating a private prison.</p> <p>4 BY MR. FORGE:</p> <p>5 Q. I'm -- I'm not just asking you if it</p> <p>6 would be appropriate. I'm asking you to confirm</p> <p>7 that you've previously stated, whether verbally</p> <p>8 or in writing, that it would be indefensible to</p> <p>9 suggest that these overhead costs of the BOP</p> <p>10 should not be counted against the private</p> <p>11 operator if there is to be an accurate accounting</p> <p>12 of how much it costs to incarcerate inmates in a</p> <p>13 private prison.</p> <p>14 MR. GLENNON: Objection,</p> <p>15 foundation, form.</p> <p>16 THE WITNESS: Again, I'm not -- I'm</p> <p>17 not sure I understand what you're asking.</p> <p>18 It sounds like you're saying that</p> <p>19 previously I've said those costs should</p> <p>20 not be counted.</p> <p>21 BY MR. FORGE:</p> <p>22 Q. No, just the opposite.</p> <p>23 What I'm saying is -- and you can</p> <p>24 either confirm or deny that you said this in --</p> <p>25 in -- in writing or verbally.</p>	<p style="text-align: right;">Page 103</p> <p>1 2:00 Eastern.</p> <p>2 VIDEO OPERATOR: Going off the</p> <p>3 record at 12:50 p.m.</p> <p>4 (Thereupon, a brief recess was</p> <p>5 taken.)</p> <p>6 VIDEO OPERATOR: We are back on the</p> <p>7 record at 1:12 p.m.</p> <p>8 BY MR. FORGE:</p> <p>9 Q. Welcome back, Mr. Lappin.</p> <p>10 What did you do -- did you talk with</p> <p>11 anybody during the break?</p> <p>12 A. Right now you are breaking up.</p> <p>13 Q. Okay. Can you hear me now?</p> <p>14 A. That's better.</p> <p>15 Q. Did you speak with anyone during the</p> <p>16 break?</p> <p>17 A. I talked to my wife --</p> <p>18 Q. And --</p> <p>19 A. -- and I talked with -- I talked with</p> <p>20 my attorneys.</p> <p>21 Q. How long did you spend talking to</p> <p>22 your attorneys on the break?</p> <p>23 A. Five minutes.</p> <p>24 Q. Did you talk about the deposition?</p> <p>25 MR. GLENNON: I'm going to object</p>
<p style="text-align: right;">Page 102</p> <p>1 You actually said it would be</p> <p>2 indefensible to suggest that these overhead costs</p> <p>3 should not be counted against a private operator</p> <p>4 if there is to be an accurate accounting of how</p> <p>5 much it costs to incarcerate inmates in a private</p> <p>6 prison.</p> <p>7 A. Yes, these costs should be part of</p> <p>8 the calculation.</p> <p>9 Q. Okay.</p> <p>10 MR. GLENNON: And I just want to</p> <p>11 instruct -- I want to insert an objection</p> <p>12 to form.</p> <p>13 And, Mr. Lappin, if you could give me</p> <p>14 a -- a second to do that, please.</p> <p>15 THE WITNESS: I apologize. I'm</p> <p>16 sorry, Brian.</p> <p>17 I -- I'm going to need to take a</p> <p>18 break.</p> <p>19 MR. FORGE: Okay. Ten minutes?</p> <p>20 MR. GLENNON: I think that's good.</p> <p>21 Mr. Lappin, is that okay with you?</p> <p>22 THE WITNESS: Yes, that's fine with</p> <p>23 me.</p> <p>24 MR. FORGE: Okay. See you all back</p> <p>25 at -- I guess it would be 1:00 Central,</p>	<p style="text-align: right;">Page 104</p> <p>1 and instruct the witness not to answer.</p> <p>2 MR. FORGE: I'm not going to ask</p> <p>3 anything beyond that.</p> <p>4 BY MR. FORGE:</p> <p>5 Q. Did you talk about the deposition?</p> <p>6 MR. GLENNON: Mr. Lappin, you can</p> <p>7 answer yes or no.</p> <p>8 THE WITNESS: Yes.</p> <p>9 BY MR. FORGE:</p> <p>10 Q. Did you talk about your testimony</p> <p>11 during this deposition?</p> <p>12 MR. GLENNON: I'm going to shut</p> <p>13 down that line of questions. I'm going to</p> <p>14 instruct the witness not to answer.</p> <p>15 BY MR. FORGE:</p> <p>16 Q. Mr. Lappin, before we broke we were</p> <p>17 talking about including BOP's overhead costs</p> <p>18 associated with private prisons and your</p> <p>19 private -- prior statements regarding that topic.</p> <p>20 Would you agree with me that an</p> <p>21 approach that excludes the BOP's overhead costs</p> <p>22 that we went over earlier would grossly</p> <p>23 underestimate the true costs of contracting for</p> <p>24 prison services?</p> <p>25 MR. GLENNON: Object to form,</p>

<p style="text-align: right;">Page 105</p> <p>1 vague.</p> <p>2 THE WITNESS: You know, I -- I'm</p> <p>3 not sure that -- again, I -- I wasn't the</p> <p>4 one doing the calculations. It was</p> <p>5 outside of my area of expertise and</p> <p>6 responsibility as far as the details of</p> <p>7 the financial calculation. So I -- I'm</p> <p>8 not sure that some -- those -- those costs</p> <p>9 were not included.</p> <p>10 But the -- the -- a cost associated</p> <p>11 with that, given my personal assessment of</p> <p>12 the number of people and salaries, would be</p> <p>13 a drop in the bucket compared to the overall</p> <p>14 cost of the contract.</p> <p>15 So don't know for sure if those costs</p> <p>16 were included or not, but either way, it</p> <p>17 would -- I am very confident, based on my</p> <p>18 knowledge of how many people would fall into</p> <p>19 that category, that the additional cost</p> <p>20 would be insignificant, unlike if you</p> <p>21 included the cost of retirement in the</p> <p>22 Bureau of Prisons cost estimate, which is</p> <p>23 not included.</p> <p>24 So there are variations either way.</p> <p>25 Again, I'm not the expert necessarily on</p>	<p style="text-align: right;">Page 107</p> <p>1 facilities.</p> <p>2 But, again, long -- a long time ago,</p> <p>3 didn't do the calculation, obviously,</p> <p>4 myself. I don't know about the -- the</p> <p>5 support staff in the central office, if</p> <p>6 those costs were included or not. But if</p> <p>7 they were, given how few staff were in those</p> <p>8 components, the costs spread over the</p> <p>9 millions and millions and millions of</p> <p>10 dollars and the up to 30,000 inmates would</p> <p>11 be insignificant.</p> <p>12 BY MR. FORGE:</p> <p>13 Q. Again, you don't know what costs were</p> <p>14 or were not included in any calculations that</p> <p>15 you've previously considered, correct?</p> <p>16 A. No.</p> <p>17 MR. GLENNON: Object -- object to</p> <p>18 form.</p> <p>19 THE WITNESS: No.</p> <p>20 BY MR. FORGE:</p> <p>21 Q. So no meaning it's correct you don't</p> <p>22 know?</p> <p>23 MR. GLENNON: Same objection.</p> <p>24 THE WITNESS: I don't know exactly</p> <p>25 what costs were included in that</p>
<p style="text-align: right;">Page 106</p> <p>1 what was in the calculation or what should</p> <p>2 or shouldn't be, but I -- if it were, I'm</p> <p>3 confident the additional cost would be very,</p> <p>4 very small.</p> <p>5 BY MR. FORGE:</p> <p>6 Q. Got it.</p> <p>7 So I -- I -- I appreciate you</p> <p>8 clarifying that you're -- you're not the expert.</p> <p>9 You're not an expert on necessarily what should</p> <p>10 be in these cost comparison calculations,</p> <p>11 correct?</p> <p>12 A. I -- I don't consider -- I -- I think</p> <p>13 you've got other people that are -- have more</p> <p>14 expertise in this area than me.</p> <p>15 Q. And, in fact, you don't know what --</p> <p>16 exactly what components went into any prior cost</p> <p>17 comparisons between CCA and the BOP, correct?</p> <p>18 MR. GLENNON: Objection --</p> <p>19 THE WITNESS: Well --</p> <p>20 MR. GLENNON: -- form, vague.</p> <p>21 THE WITNESS: -- I -- I know that</p> <p>22 the -- the costs of the contract,</p> <p>23 obviously, and associated expenses with</p> <p>24 that I am -- believe we included the</p> <p>25 expense associated with the staff in the</p>	<p style="text-align: right;">Page 108</p> <p>1 calculation, but I know that our staff,</p> <p>2 who have that expertise, are accessible</p> <p>3 and on your -- on your list of people to</p> <p>4 be deposed.</p> <p>5 BY MR. FORGE:</p> <p>6 Q. Okay. But that's not you?</p> <p>7 A. That's correct.</p> <p>8 MR. GLENNON: Object to form.</p> <p>9 THE WITNESS: That is correct.</p> <p>10 BY MR. FORGE:</p> <p>11 Q. And you don't know whether there was,</p> <p>12 for example, any attempt to account for the fact</p> <p>13 that BOP corrections officers have to have a</p> <p>14 college degree or equivalent experience, whereas</p> <p>15 CCA corrections officers do not? You don't know</p> <p>16 if there was any attempt to put a financial</p> <p>17 figure on that, do you, sir?</p> <p>18 MR. GLENNON: Object to form.</p> <p>19 THE WITNESS: So, a Bureau of</p> <p>20 Prisons correctional officer does not</p> <p>21 require a degree. The minimum</p> <p>22 qualifications for a person considered for</p> <p>23 employment in the Bureau of Prisons, at</p> <p>24 least through the time I was in the</p> <p>25 bureau, through and including the time as</p>